

**FEDERAL COMMUNICATIONS COMMISSION**  
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Lorenz E. Proietti  
911 Colonial Drive  
Cheyenne, WY 82001

Re: KMQS(FM), Wheatland, Wyoming  
Facility Identification Number: 166044  
Lorenz E. Proietti  
File No: BPH-20100104AAK

Dear Applicant:

This refers to the community of license application filed by Lorenz E. Proietti ("Proietti"), licensee of Station KMQS(FM), Wheatland, Wyoming, requesting to modify the license for Station KMQS(FM), Channel 293A, Wheatland, Wyoming, to be moved to West Laramie, Wyoming, as its first local service. White Park Broadcasting, Inc. ("White Park Broadcasting") filed an Informal Objection and a Supplement to Informal Objection ("Supplement"). Thus, for the reasons set forth below, we find the application to be deficient and grant the Informal Objection; but, provide a specific opportunity for the filing of a corrective amendment to the application.

**Background.** The application was filed pursuant to Section 73.3573(g) of the Commission's rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file a competing expression of interest. Any reallocation proposal must result in a preferential arrangement of allotments.<sup>1</sup> We make this determination using the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.<sup>2</sup> This application would provide a first local transmission service to West Laramie under Priority (3).

In its Informal Objection, White Park Broadcasting asserts that West Laramie does not constitute a community for allotment purposes. It argues that West Laramie is not incorporated or recognized by the Census Bureau as a Census Designated Place. Moreover, West Laramie is not recognized as an identifiable population grouping. White Park Broadcasting contends that West Laramie does not have the social, economic or cultural indicia qualifying it as a community for allotment purposes. Additionally, in its Supplement, White Park Broadcasting submitted a testimony from a resident and member of the West Laramie Business Association, stating that West Laramie is a part of the city of Laramie.

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<sup>1</sup> See *Modification of FM and TV Authorizations to Specify a New Community of License* ("Community of License"), Report and Order, 4 FCC Rcd 4870 (1989), *recon. granted in part*, Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990).

<sup>2</sup> *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1988). The FM allotment priorities are: (1) First fulltime aural service, (2) Second fulltime aural service, (3) First local service and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3).

**Discussion.** We grant the Informal Objection. In doing so, we find that West Laramie is not a community for allotment purposes. The Commission has defined a community as geographically identifiable population groupings, which have common local interests.<sup>3</sup> The test for determining whether a locality is a community is not a stringent one.<sup>4</sup> This requirement is generally satisfied if the proposed community is either incorporated or listed in the U.S. Census. Incorporation, however, is not a prerequisite to community status. The key factor in determining the existence of a community is the presence of a community of interest associated with an identifiable population grouping separate and distinct from all others and that the boundaries of the location do not enclose areas or populations more logically associated with some other location. A mere geographical location is not enough. There must be a clearly established, separate and distinct community with palpable political, economic and social needs that a radio station can address. The principal test is whether the residents function as and conceive themselves as a community around which their interests coalesce. This may be proven by direct testimony of residents of the locality and by various community indicia. These could include separate municipal services and institutions, or significant political, commercial, social and/or religious organizations and services serving the residents.

In this instance, West Laramie is not listed in the U.S. Census. West Laramie is, however, listed in the 2008 Rand McNally Commercial Atlas and Marketing Guide as part of the city of Laramie to which its population is contributed to Laramie's. A mere geographical location is not sufficient to establish community status. West Laramie does not have a local government, and its zip code (82070) is associated with the city of Laramie. Proietti has submitted evidence that show that West Laramie is considered a neighborhood located within the city of Laramie. In the past, the Commission has rejected claims of community status where a connection has not been shown between political, social and commercial organizations and the community in question.<sup>5</sup> Proietti has not submitted testimonies from residents, businesses, or community leaders attesting to the fact that West Laramie is separated and apart from the city of Laramie. We recognized that Proietti has submitted several pictures of commercial establishments, a park, and a school. However, Proietti has not specifically identified that these entities are intended to serve West Laramie as opposed to the city of Laramie. Based on the foregoing, we conclude that West Laramie is not a community for allotment purposes.<sup>6</sup>

Therefore, pursuant to Section 73.3522(c)(2) of the Commissions' Rules,<sup>7</sup> "... an applicant whose application is found to meet minimum filing requirements, but nevertheless is not complete and acceptable, shall have the opportunity during the period specified in the FCC staff's deficiency letter to

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<sup>3</sup> See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88, 98 (1982).

<sup>4</sup> See *Beacon Broadcasting*, Memorandum Opinion and Order, 2 FCC Rcd 3469 (1987), *aff'd sub nom*; see also *New South Broadcasting Corp. v FCC*, 879 F. 2d 867 (D.C. Cir 1989).

<sup>5</sup> *Gretna, Marianna, Quincy and Tallahassee, Florida*, Report and Order, 6 FCC Rcd 633 (MMB 1991) and *Semora, North Carolina*, Memorandum Opinion and Order, 5 FCC Rcd 934 (1990)(rejecting the community status in question because it was not shown that the community had other indicia of community status such as political, social, or business organizations, or testimony of local residents).

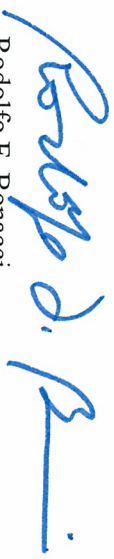
<sup>6</sup> See *Stock Island, Florida*, Report and Order, 8 FCC Rcd 343 (MMB 1993) and *East Hemet et al.*, Report and Order, 4 FCC Rcd 7895 (MMB 1989)(denying community status because petitioner failed to identify any other businesses or political, social and commercial organizations which identify themselves with the community in question)

<sup>7</sup> 47 C.F.R. § 73.3522(c)(2).

correct all deficiencies in the tenderability and acceptability of the underlying application, including any deficiency not specifically identified by the staff.” Additionally, Section 73.3564(a)(3) of the Commissions’ Rules<sup>8</sup> states, “Applications with uncorrected tender and/or acceptance defects remaining after the opportunity for corrective amendment will be dismissed with no further opportunity for corrective amendment.” See Appendix B of the *Report and Order* in MM Docket 91-347, 7 FCC Rcd 5074, 57 Fed. Reg. 34872 (published August 7, 1992). **This letter constitutes the opportunity for corrective amendment pursuant to Section 73.3522(c)(2).**

Further action on the subject application will be withheld for 30 days from the date of this letter to provide an opportunity to reply. Failure to correct all tender and acceptance defects within 30 days from the date of this letter will result in dismissal of the application with no further opportunity for corrective amendment pursuant to Section 73.3564(a). Furthermore, failure to respond within 30 days will result in the dismissal of the application pursuant to Section 73.3568 of the Commission’s Rules.<sup>9</sup>

Sincerely,

A handwritten signature in blue ink, appearing to read "Rodolfo F. Bonacci".

Rodolfo F. Bonacci  
Assistant Chief  
Audio Division  
Media Bureau

cc: A. Wray Fitch III  
Victor A. Michael, Jr.  
Barry A. Friedman

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<sup>8</sup> 47 C.F.R. § 73.3564(a)(3).

<sup>9</sup> 47 C.F.R. § 73.3568.